

ORDINANCE # 64 b AMENDMENT

VEHICLES: JUNKED, ANTIQUE, OR ABANDONED

AN ORDINANCE PROVIDING THAT SUCH ORDINANCE MAY BE CITED AS THE “JUNKED MOTOR VEHICLE ORDINANCE, “ MAKING IT UNLAWFUL TO LEAVE OR PERMIT TO REMAIN UPON ANY PRIVATE OR PUBLIC PROPERTY WITHIN THE CITY OF ROPESVILLE, HOCKLEY COUNTY, TEXAS ANY JUNKED VEHICLE, OR PORTIONS THEREOF, FOR ANY PERIOD OF TIME EXCEEDING TEN (10) DAYS DECLARING THE LEAVING OR PERMITTING TO REMAIN, OF ANY JUNKED MOTOR VEHICLE, OR PART OR PORTION THEREOF, UPON PUBLIC OR PRIVATE PROPERTY IN THE CITY OF ROPESVILLE, TO BE UNLAWFUL AND ESTABLISHING PROCEDURES OR ABATEMENT AND REMOVAL OF JUNKED VEHICLES OR PARTS THEREOF, AS A PUBLIC NUISANCE, FROM PRIVATE PROEPRTY OR PUBLIC PROPERTY, PROVIDING THAT NOTICE BE GIVEN, PROVIDING A PENALTY AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, The City (Aldermen) Council of the City of Ropesville, Hockley County, Texas, finds a large number of junked vehicles, as that term is defined herein, are from time to time left in place(s) where they are visible from a public place or public right-of-way, that said junked vehicles create fire hazards and that the same constitutes an attractive nuisance, creating a hazard to the health and safety of minors, and the same are detrimental to the economic welfare of the City of Ropesville, by producing urban blight which is adverse to the maintenance and continuing development of the City of Ropesville; and

WHEREAS, it is in the best interest of the Citizens of Ropesville, and is set to protect the public health and promote the public welfare of the City of Ropesville;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL (ALDERMEN) OF THE CITY OF ROPESVILLE, HOCKLEY COUNTY, TEXAS, AS FOLLOWS:

THE FOLLOWING DEFINATIONS SHALL APPLY IN THE INTERPRETATION AND ENFORCEMENT OF THIS ORDINANCE:

SHORT TITLE:

SECTION 1: (a) This Ordinance may be cited as “Junked Vehicles(s) Ordinance”

SECTION 2: The following terms whenever used or referred to in this Ordinance shall have the following respective meaning unless a different meaning clearly appears from the context:

- CITY:** Shall mean of the City of Ropesville, Texas
- POLICE DEPARTMENT:** Shall mean the Police Department of the City of Ropesville
- DEMOLISHER:** Shall mean any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise wreck or dismantle a motor vehicle.
- ABATE (ABATEMENT):** Shall be interrupted by the Law.
- VEHICLES (JUNKED):** Shall be interrupted by the Law: TRANSPORTATION CODE 683.071-683.078

SECTION 3:

Section 683.0711 Transportation Code, which allows a Municipality to provide for a more inclusive definition of a junked vehicle subject to regulation under Chapter 683 “Abandoned Motor Vehicle” the Act if a “junked vehicle” may be declared a public nuisance it is visible, “at any time of the year”, from a public place or public right-of way.”

MUNICIPAL REQUIREMENTS or the adoption of an Ordinance, with the definition of “junked Vehicle” subject to regulation described in the Transportation Code Section 683.072 Junked Vehicle declared to be a “Public Nuisance.” “A junked vehicle, including a part of a junked vehicle that is visible at any time of the year from a public place or public-right-of-way.”

Section 683.073 Transportation code set the Offense for Public Nuisance;

- a) A person commits an offense, if the person maintains a public nuisance described by Section 683.072
- b) An Offense under this section is a misdemeanor punishable by a fine not to exceed \$200.00 Dollars;
- c) The Court shall order abatement and removal of the nuisance on conviction.

Section 683.074 Authority to Abate Nuisance; Procedures;

1. A municipal court or County may adopt procedure that conforms to this subchapter or the abatement and removal from private, or public property or public right-of –way of a junked vehicle or part of a junked vehicle as a public nuisance.

Junked Vehicle, Public Nuisance shall mean:

- Is detrimental to the safety and welfare of the public;
- Tends to reduce the value of the private property;
- Invites vandalism
- Creates a fire hazard;
- Is an attractive nuisance creating a hazard to the health and safety of minors;
- Produces urban blight adverse to the maintenance and continuing development of municipalities;
- Attracts rodents, and unsightly weeds and trash; and
- Is a public nuisance, and subject to abatement under the abatement Ordinance;
- Is unregistered and or not inspected, may be subject to the title of junked vehicle.

Junked Vehicle shall mean:

- a) Is self-propelled; and
- b) Is wrecked, dismantled or partially dismantled, or discarded; or
- c) Inoperable and has remained inoperable for more than:
 - i. 72 consecutive hours, if the vehicle is on public property;
or
 - ii. 30 consecutive days, if the vehicle is on private property.
- d) Displays an expired license plate or invalid motor inspection certificate, or does not display either a license plate or motor inspection certificate

For this Ordinance "junked vehicle" includes a motor vehicle, aircraft, or watercraft. And applies to

- a) A motor vehicle that does not have lawfully attached to it:
 - i. An unexpired license plate; and
 - ii. A valid motor vehicle inspection certificate.

MOTOR VEHICLES PENAL CODE CHAPTER 28.01 (C), (4)

Vehicle means any device in, on or by which any person or property is or may be propelled, moved, or drawn in the normal course of commerce or transportation.

ABANDONED MOTOR VEHICLE

A motor vehicle that is inoperable and more than five (5) years old and left unattended on public property for more than forty-eight (48) hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours, or a motor vehicle left unattended on the right-of-way of a

designated county, state, or federal highway, with this State, and within the city limits, of the City of Ropesville for more than forty-eight (48) hours.

ANTIQUE AUTO COLLECTOR

The owner of one or more antiques or special interest vehicle who collects, purchase, acquires, trades, or disposes of special interest or antique vehicle or part of them for personal use to restore, reserve, and maintain an antique or special interest vehicle for historic interest.

DEMOLISHER

A person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wrecked or dismantles a motor vehicle.

GARAGEKEEPER

An owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

DATE **Beginning on the 11th Day after the City Mails the Notice.**

SECTION 4: MAKING IT UNLAWFUL TO CREATE OR TO MAINTAIN SUCH NUISANCE

It shall be unlawful for any individual, company, or corporation to leave or permit to remain upon any public or private property, (except as hereinafter provided) within the City of Ropesville, Texas, any junked vehicle or parts or portion thereof, for any period:

- i. 72 consecutive hours, if the vehicle is on public property;
 or
- ii. 30 consecutive days, of the vehicle is on private property.

SECTION 5: NOTICE BY THE CHIEF OF POLICE, IN AND FOR THE CITY OF ROPESVILLE, HOCKLEY COUNTY, TEXAS, OR THE DESIGNATED CITY EMPLOYEE APPOINTED BY THE CITY COUNCIL, (ALODERMAN) FOR THE CITY OF ROPESVILLE

Whenever it is brought to the attention of the City Law Enforcement, Police Department or to the appointed city employee for the City of Ropesville, The Chief of Police, or appointed employee shall give or cause to be given to the person maintaining or suspected of maintaining said nuisance, in writing, giving a ten (10) day notice, stating the nature of the public nuisance and that it (the nuisance) must be removed and abated with the ten (10) days, and further that a request for a hearing must be made before the expiration of the said ten (10) days; said notice is to be mailed, by certified or registered mail with a five (5) day return request, and mailed to the owner or occupant of the premises where upon such a public nuisance exists. If

the notice is returned undelivered by the United States Post Office, official action to abate the said nuisance shall be continued to a date not less than the ten (10) days of the stated date of such return.

NOTICE TO ABATE TO BE MAILED TO OWNER

- a) When any such junked vehicle is located on any private property in violation of this division, the Chief of Police, or appointed City employee shall order the owner or the occupant of the premises whereon such public nuisance exists, to abate or remove the same. Such order shall be:
- (1) Be in writing; and
 - (2) State the nature of the public nuisance and that it must be removed and abated within the ten (10) days after the service of notice; and
 - (3) State that a request for a hearing to determine whether the motor vehicle is a junked motor vehicle, must be made to the Clerk of the Municipal Court, either in writing, or in person and without the requirement of Bond, before the expiration of the said ten (10) day period; and
 - (4) State that if no request for a hearing is received before the expiration of said ten (10) day period, it shall be conclusively presumed that said vehicle is a junked vehicle. (Such notice shall be mailed to the violator by certified or registered mail, with a five (5) day return request, and shall be mailed to the owner or the occupants of the private premises where upon such public nuisance exists,)

VISIBLE NOTICE TO BE PLACED ON JUNKED VEHICLES

At the time, a junked vehicle is located by the Chief or Police or employee appointed by the City of Ropesville, The City Council (Alderman), on either occupied or unoccupied, private or public property or public-right-of-way, in addition to any other notices required herein, a visible notice, brightly colored, but of a color different from that used for notice of abandonment, shall be securely affixed to such vehicle, and such notice shall State that:

- a) The vehicle is a public nuisance and that it must be removed and abated within ten (10) days from the date on such notice, and
- b) That a request for a hearing to determine whether the motor vehicle is a junked vehicle as defined herein, the request must be made to the Clerk of the Municipal Court, either in person or in writing and without the required bond, before the expirations of the said ten (10) day waiting period, and

- c) That if no request for a hearing is received before the expiration of the said ten (10) day period, it shall be conclusively presumed that said vehicle is a junked vehicle as defined under the State, Federal, local laws, including the City Ordinance; and

- d) The date of the notice was affixed to the vehicle. (This action may be impossible if the vehicle is located on private property and the owner or occupant has restricted any entry to the property)
 - i. Affixing the notice set out herein shall not be a condition or requirement precedent to any proceeding or official action to abate such public nuisance, and such proceeding or action shall not be rendered void or voidable, not in any way affected by failure to affix the visible notice prescribed herein, and
 - ii. In the event the ten (10) day period set out on the visible notice is different from that prescribed in any other notice served as provided for herein, then official action or proceeding to abate such public nuisance shall not be commenced until after the expiration of both periods of time.

RIGHTS TO A HEARING BY THE VEHICLE OWNER

- 1). The owner or occupant of any premises on which a junked vehicle is located may, within ten (10) days after service of a notice to abate said nuisance, request of the Clerk of the Municipal Court of the City of Ropesville, either in person, or in writing and without the requirement of bond, request that a date and time be set when he/she may appear before the judge of the Municipal Court for a hearing to determine if the motor vehicle is a junked vehicle,
- 2). The Judge of the Municipal Court shall hear any cause brought before such court, as set out herein, and shall determine by a preponderance of the evidence whether the motor vehicle is a junked motor vehicle and in violation of this article. Such a hearing shall not be criminal in nature and shall be summary as due process and orderly procedure allows. Upon finding that such motor vehicle is in violation of this article, the judge of such courts shall order such defendant to remove and abate such nuisance within ten (10) days, the same being a reasonable time. If the defendant shall fail and refuse with the ten (10) days to abate or remove the nuisance, the Judge of the Municipal court may issue an order directing the Chief of Police, or appointed employee to have the same removed, and the Chief of Police or employee appointed shall take possession of such vehicle, if available at the time; and

3). Notice of any hearing set under this section shall be delivered to the Chief of Police or employee appointed by the City Aldermen; and

4). Any resolution or order requiring the removal of the vehicle or part thereof shall include a description of the vehicle and the correct identification number and license plate number of the vehicle, if available at the site. (Inventory shall be taken: The Chief of Police or appointed employee shall have a witness sign the inventory form)

DECLARED TO BE A NUISANCE: JUNKED VEHICLE DECLARED A PUBLIC NUISANCE

“Junked Vehicle”, which are located in any place where they are visible from a public place or public right-of-way, and junked Vehicles are detrimental to the welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create a fire hazard, to constitute an attractive nuisance, creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city and state by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are declared to be a public nuisance and subject to abatement as provided herein.

PROHIBITED ON PRIVATE PROPERTY

The owner or occupant of any real property within the city, shall keep such property free of, and shall not permit or suffer the presence of any junked vehicle on such property.

AUTHORITY TO TAKE INTO CUSTODY

The law enforcement agency may take into custody an abandoned motor vehicle found on a public or private property. The Law Enforcement agency may use agency personnel, equipment and facilities or contract for other personnel, equipment and facilities to remove, preserve and store an abandoned motor vehicle by the law enforcement agency under this ordinance, State Law reference V.T.C.A. Transportation code 683.011

SECTION 6: IT SHALL BE UNLAWFUL AND A VIOLATION OF THIS ORDINANCE: for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by said order.

SECTION 7: DUTY OF THE OWNER OR OCCUPANT OF THE PREMISES: In the Event the owner or occupant of the premises does not request a hearing herein above provided, it shall be his duty to comply with the provision of the notice given him and to abate such nuisance within ten (10) days after the date of the receipt of such notice.

SECTION 8: VEHICLE NOT TO MAKE OPERABLE: After a vehicle, has been removed in accordance with or under the terms and provisions of this Ordinance, it shall not be reconstructed or made operable.

SECTION 9: NOTICE TO TEXAS HIGHWAY DEPARTMENT: Notice shall be given to the Texas highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.

SECTION 10: WHERE ARTICLE DOSE NOT APPLY: This Ordinance shall not apply to:

1. A Vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or public or private property, or
2. A Vehicle or part thereof which is stored or parked in a lawful manner on private property about the business of a licensed vehicle dealer or junk yard, or
3. Enclosed entirely by a fence approved by the city council (Aldermen) for the City of Ropesville, Texas. The Fence shall be of a type that a person cannot see or in a manner where the vehicle is not visible from the street or other public or private property.

SECTION 11: ADMINISTRATION OF THIS ORDINANECE

The administrator of this ordinance shall be by regularly salaried, full-time employee of the City of Ropesville, except that the removal of the vehicle or parts thereof from property may be made by any other duly authorized person(s).

SECTION 12: REMOVAL OF VEHICLE Within ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which said vehicle is located, The Chief of Police of the City of Ropesville, or members of the Police Department of the City of Ropesville, acting under the direction of the Chief of Police, may if said nuisance has not been abated, removed or cause to be removed the vehicle which was the subject of such notice to a suitable city storage area designed by the Mayor of the City of Ropesville, Texas. Such vehicle shall be stored in such storage for a period of not less than ten (10) days (days begin the 11th Day after the notice) during which period any party owing or claiming rights, title or interest therein shall be entitled to claim possession of the same by the payment to the City of Ropesville, Texas, the actual cost of the City abating such nuisance. The Chief of Police may in such cases, if he deems it necessary, require such person to post a bond of not more than \$50.00 nor less than \$25.00 conditioned that such a person will not use said vehicle to create another nuisance in the City of Ropesville.

1. If a hearing is requested by a person for whom notice is required under this section the hearing shall not be held earlier than the 11th day after the stated date of the service of notice, and
2. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:

- a) Description, and
- b) Vehicle identification number, and License Plate number (State Law Reference V.T.C.A. Transportation code 683.076)

AUCTION PROCESS

The law enforcement agency is entitled to reimbursement of the proceeds from the sale of an abandoned motor vehicle for:

1. The Cost of the Auction, and/or
2. Towing, preservation and storage fees resulting from the taking into custody, and
3. The Cost of notice or publication as required by law.

After deducting the reimbursement allowed under this section, the proceeds of the take shall be held for ninety (90) days for the owner or lien holder of the vehicle. After the 90-day period provided by this section proceeds unclaimed by the owner or lien holder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage and notice and publication fees, resulting from taking other vehicles into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

4. The city may transfer funds more than \$1,000.00 from the account to the city's general revenue fund account to be used by the law enforcement agency.
(State Law reference V.T.C.A. Transportation Code 683015)

Police Department use of certain abandoned Motor Vehicles:

1. If an abandoned motor vehicle has not been reclaimed as provided by this Article, the Police Department that originally took custody of the abandoned motor vehicle may use that vehicle for the police department purposes as provided by this action.
2. The Police Department may use the abandoned Motor Vehicle for the police department purposes if the department considers it cost-effective, if the police department discontinues use of the abandoned motor vehicle, the department shall auction the vehicle as provided by this article.
3. This section does not apply to an abandoned motor vehicle with a garage keeper's lien.

SECTION 13: SALE OR DISPOSAL OF VEHICLE

When any junked vehicle has remained in the storage area provided in Section 12, hereof, for not less than ten (10) days, it shall be the duty of the Chief of Police of the City of Ropesville, Texas, to dispose of the same by removal to scrap yard or by sale to a demolisher for the highest bid or offer received therefore or to remove same to any suitable site operated by the City for process as scrap or salvage.

SECTION 14: OUT OF THE PROCEEDS OF SAME THE CHIEF OF POLICE SHALL PAY FOR THE COST OF REMOVAL AND STORAGE AND THE BALANCE; IF ANY SHALL BE PAID TO THE PERSON ENTITLED THERETO: (EITHER THE OWNER OR LIENHOLDER).

If there is not a bid or offer for the junked vehicle the Chief of Police may dispose of the same by causing it to be demolished or removed to a place provided by the City Council (Aldermen) or by permitting it to be removed by the demolisher who is willing to do so, (SECTION 13) for the benefit of the junk or parts he can salvage.

SECTION 15: CITY CHIEF OF POLICE MAY DELEGATE; THE CITY COUNCIL MAY DELEGATE: WHENEVER THE CHIEF OF POLICE IS CHARGED WITH THE ENFORCEMENT OF THIS ORDINANCE, he may delegate said authority to any regular salaried employee of the Police Department of the City of Ropesville. When necessary to enforce this ordinance, the City council may appoint a regular salaried employee of the City of Ropesville to mail out complaints, take pictures, hang door hangers, and any other action to resolve the issue of a junked motor vehicle.

SECTION 16: PREVIEW OF THIS ORDINANCE

It is not intended by this Ordinance to make provisions pertaining to abandoned motor vehicle as the "ABANDONED MOTOR VEHICLE ACT" defines that term.

SECTION 17: ANY PERSON WHO SHALL VIOLATED THE TERMS AND PROVISIONS OF THIS ORDINANCE,

Any person who shall violate the terms and provision of this Ordinance shall, upon conviction thereof, be punished by a fine of not less than \$1.00 and not more than \$200.00 Dollars for each day this Ordinance is violated, (Each day of violation may cause a separate offense).

SECTION 18: EFFECT OF OTHER LAWS

This Ordinance does not affect a law authorizing the immediate removal of a vehicle left on a public property that is an obstruction to traffic.

SECTION 19: SERVERABILITY

If, for any reason, any one or more paragraphs of this Ordinance, is held invalid by a court of competent jurisdiction, such holding shall not effect, impair or invalidate the remaining paragraphs of this Ordinance, but shall be confined in its operation to the specific section, sentences, clause or parts of this Ordinance in any one or more instances shall not effect or prejudice, in any way the validity of this Ordinance in any other instance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROPESVILLE, AND IT IS SO ORDERED

PASSED, By the City Council in and for the City of Ropesville on the first reading on this the 12_ day of _September_ 2017.

PASSED, By the City Council in and for the City of Ropesville on the second reading on this the 28th day of _September 2017

Brenda Reibel
City of Ropesville, Mayor

AN ORDINANCE OF THE CITY OF ROPESVILLE, AN ORDINANCE PROVIDING THAT SUCH ORDINANCE MAY BE CITED AS THE "JUNKED MOTOR VEHICLE ORDINANCE,

ATTEST:

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS 28 day of September, 2017

APPROVED AS TO FORM:

Brenda Reibel

Mayor, City of Ropesville

Susan Thompson

City Secretary

(Approved by City Attorney Jimmy Hammons)